

United States Senate

WASHINGTON, DC 20510

September 6, 2019

The Honorable Kevin McAleenan
Acting Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue, N.W.
Washington, D.C. 20528

The Honorable Alex Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Acting Secretary McAleenan and Secretary Azar:

We are writing to express our serious concerns over the U.S. Department of Homeland Security's (DHS) recent announcement, through U.S. Customs and Border Protection (CBP), that migrant families currently detained at CBP holding centers will not be vaccinated for the flu ahead of this year's flu season. This dangerous decision not to administer vaccinations for a disease that has already proven fatal to children in CBP's custody is immoral and irresponsible, placing entire communities at risk of the flu and its associated complications. CBP must do more to ensure the health of migrant children and families under its care, and we strongly urge the agency to reconsider its plan not to vaccinate those in its custody.

Children, the elderly, and pregnant women are among those at the highest risk of contracting the flu.¹ According to the Centers for Disease Control and Prevention (CDC), "the best way to prevent seasonal flu is to get vaccinated every year."² In addition to reducing the likelihood that vaccinated individuals become infected with the flu, flu vaccines help prevent outbreaks from spreading throughout communities and the nation as a whole. The CDC currently recommends that all individuals above the age of 6 months receive a flu vaccine by the end of October 2019 to protect against the disease for the upcoming flu season.³ The American Academy of Pediatrics also recommends "routine influenza immunization of all children without medical contraindications, starting at 6 months of age."⁴ Furthermore, the U.S. Citizenship and

¹ Centers for Disease Control and Prevention, "People at High Risk for Flu Complications," <https://www.cdc.gov/flu/highrisk/index.htm>.

² Centers for Disease Control and Prevention, "Prevent Seasonal Flu," <https://www.cdc.gov/flu/prevent/index.html>.

³ Centers for Disease Control and Prevention, "Who Needs a Flu Vaccine and When," <https://www.cdc.gov/flu/prevent/vaccinations.htm>.

⁴ American Academy of Pediatrics, "Recommendations for Prevention and Control of Influenza in Children 2019-2020," August 2019, <https://pediatrics.aappublications.org/content/pediatrics/early/2019/08/29/peds.2019-2478.full.pdf>.

Immigration Services (USCIS) policy manual notes that the CDC requires that immigrants receive flu vaccines.⁵

Since 2018, at least seven children who had been in federal custody – including CBP – have died.⁶ Though the flu is a preventable illness, medical professionals have recently reported that at least three children in U.S. custody died, in part, from the flu.⁷ CBP’s largest detention center, located in McAllen, Texas, also had to temporarily stop processing migrants earlier this year due to a flu outbreak that affected nearly three dozen detainees.⁸ Overcrowded conditions in CBP facilities may have contributed to the spread of the flu, which can spread to others “up to about 6 feet away.”⁹ A recent investigation by the DHS Office of Inspector General, for example, found “serious overcrowding” in CBP’s centers, and revealed that children at several facilities “had no access to showers,” “limited access to a change of clothes,” and had “limited space for medical isolation.”¹⁰

Despite these recent deaths, CBP confirmed late last month that it would not be vaccinating the migrant families it has detained ahead of this year’s flu season.¹¹ A CBP spokeswoman justified this decision by citing, in part, the “short-term nature of CBP holding[s].”¹² The following day however, DHS and the U.S. Department of Health and Human Services (HHS) announced a new rule to amend the Flores Settlement Agreement, which, if implemented, would allow for the long-term, potentially indefinite detention of children and parents in DHS facilities.¹³ CBP’s decision not to vaccinate those in its custody, especially considering this new potential for prolonged detentions, jeopardizes the health of the children

⁵ U.S. Citizenship and Immigration Services, “Chapter 9 - Vaccination Requirement,” <https://www.uscis.gov/policy-manual/volume-8-part-b-chapter-9>; U.S. Citizenship and Immigration Services, “Vaccination Requirements,” <https://www.uscis.gov/news/questions-and-answers/vaccination-requirements>.

⁶ NBC News, “Why are Migrant Children Dying in U.S. Custody?” Nicole Acevedo, May 29, 2019, <https://www.nbcnews.com/news/latino/why-are-migrant-children-dying-u-s-custody-n1010316>.

⁷ Letter from Judy Melinek et al. to Chairwoman Rosa DeLauro and Chairwoman Lucille Roybal-Allard, <https://assets.documentcloud.org/documents/6231101/Flu-Letter.pdf>.

⁸ New York Times, “Flu Outbreak Prompts Largest Border Detention Center to Stop Processing Migrants,” Manny Fernandez and Zolan Kanno-Youngs, May 22, 2019, <https://www.nytimes.com/2019/05/22/us/flu-outbreak-border-detention-center.html>.

⁹ Centers for Disease Control and Prevention, “How Flu Spreads,” <https://www.cdc.gov/flu/about/disease/spread.htm>.

¹⁰ U.S. Department of Homeland Security, Office of Inspector General, “Management Alert – DHS Needs to Address Dangerous Overcrowding and Prolonged Detention of Children and Adults in the Rio Grand Valley (Redacted),” July 2, 2019, pp. 3-6, <https://www.oig.dhs.gov/sites/default/files/assets/2019-07/OIG-19-51-Jul19.pdf>.

¹¹ CNBC, “The US Won’t Provide Flu Vaccines to Migrant Families at Border Detention Camps,” Jessica Bursztynsky, August 20, 2019, <https://www.cnbc.com/2019/08/20/the-us-wont-vaccinate-migrant-children-against-the-flu-at-border-camps.html>.

¹² Id.

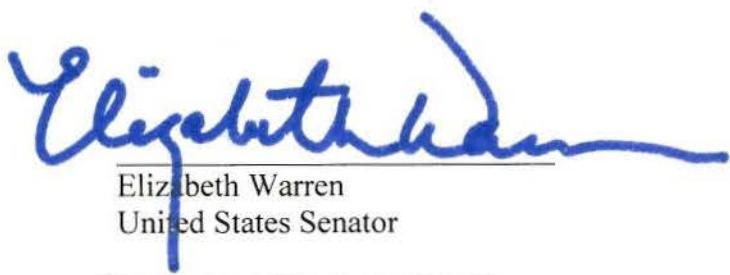
¹³ U.S. Department of Homeland Security, “DHS and HHS Announce New Rule to Implement the Flores Settlement Agreement; Final Rule Published to Fulfill Obligations Under Flores Settlement Agreement,” press release, August 21, 2019, <https://www.dhs.gov/news/2019/08/21/dhs-and-hhs-announce-new-rule-implement-flores-settlement-agreement>; New York Times, “Migrant Families Would Face Indefinite Detention Under New Trump Rule,” Michael D. Shear and Zolan Kanno-Youngs, August 21, 2019, <https://www.nytimes.com/2019/08/21/us/politics/flores-migrant-family-detention.html>.

and parents under its watch. Furthermore, this decision “could make wider flu outbreaks more likely,” which “could result in additional risk to CBP personnel” and the American public.¹⁴

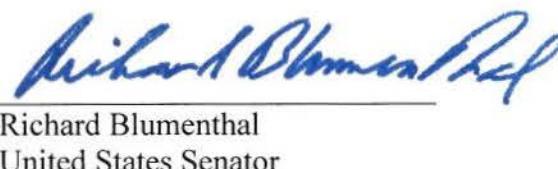
CBP’s decision not to vaccinate against this preventable harm, which has already proven fatal for children in its custody, is inexcusable. In response to our concerns, we ask that you provide answers to the following questions no later than September 20, 2019.

- 1.) How does DHS plan to combat the spread of influenza among migrant families for this upcoming flu season? Please describe in detail DHS’s treatment and prevention policies in place for migrant illness and vaccinations.
 - a. Has DHS made any projections or estimates of the number of illnesses, hospitalizations, or deaths that could be caused by your policy of not providing flu vaccines? If so, please provide those projections or estimates.
 - b. Does CBP test every individual for the flu? When a health risk is identified, what is the process that follows for the afflicted individual?
- 2.) When CBP detains migrant children and adults, what screening and testing processes are in place to identify potential influenza-like illness or other health risks? Who is conducting the screening and providing any needed treatment? How many pediatricians does CBP contract with? Are these pediatricians on site at DHS facilities, and if so, which ones?
- 3.) Does CBP have protocols in place for quarantining sick or suspected ill children? If so, please provide a copy of these protocols.
- 4.) How many vaccinations for the flu did DHS facilitate for those in its custody over the last year? Are all DHS and HHS employees, grantees, and contractors who work at holding centers vaccinated for the flu?
- 5.) Was any cost–benefit analysis conducted in deciding that migrants detained at CBP facilities will not be vaccinated for the flu? For instance, were there estimates of the costs of medical care for those who contract the flu or for the costs of facilities shutdowns, like the McAllen facility closure mentioned above? If so, describe the analysis and who conducted it. If not, why was no analysis conducted?

Sincerely,



Elizabeth Warren
United States Senator



Richard Blumenthal
United States Senator

¹⁴ Washington Post, “Withholding Flu Shots from Detained Migrants Isn’t Just Cruel. It’s Dangerous.” Saad B. Omer, August 26, 2019, <https://www.washingtonpost.com/outlook/2019/08/26/withholding-flu-shots-detained-migrants-isnt-just-cruel-its-dangerous/>.

Amy Klobuchar

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United States Senator

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United States Senator

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United States Senator

Ron Wyden

Ron Wyden
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